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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,578	12/22/2003	Sang Deok Kim	29936/39886	7996
4743	7590	01/10/2006	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			BOOTH, RICHARD A	
			ART UNIT	PAPER NUMBER
			2812	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/743,578	KIM, SANG DEOK	
	Examiner	Art Unit	
	Richard A. Booth	2812	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/19/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date/ <u>005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted prior art in view of Tsai et al., U.S. Patent 6,410,446 or Shan et al., U.S. Patent 6,365,015.

Admitted prior art discloses providing a semiconductor substrate in which a gate electrode pattern is formed; and forming an interlayer insulator film in order to bury the gate electrode pattern (see fig. 1 and paragraph 0002 of specification).

Admitted prior art does not expressly disclose forming the interlayer insulator film including a multi-layered oxide film by performing multiple simultaneous deposition-and-etch processes.

Tsai et al. shows the invention substantially as claimed including a method of manufacturing a semiconductor device, comprising the steps of: forming an interlayer insulator film (204,206) including a multi-layered oxide film by performing multiple simultaneous deposition-and-sputtering etch processes in order to bury the electrically conductive structure (see figs. 2A-2C and col. 3-line 37 to col. 4-line 35). Additionally, Shan et al. discloses forming an interlayer insulator film (121,123) including a multi-layered oxide film by performing multiple simultaneous deposition-and-sputtering etch

processes in order to bury the electrically conductive structure, with a deposition to sputtering ratio of 3 to 6 (see fig. 3 and col. 3-line 50 to col. 4-line 58). In view of these disclosures, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of the Admitted prior art so as to form the interlayer insulator using the method of Tsai et al. because such a process reduces the formation of voids.

With respect to the particular deposition to etch rate and the refractive index of the interlayer insulator film, it would have been obvious to one of ordinary skill in the art at the time the invention was made to determine through routine experimentation the optimum deposition to etch rate ratio and refractive index based upon a variety of factors including the desired density of the material and such limitations would not lend patentability to the instant application absent a showing of unexpected results.

Response to Arguments

Applicant's arguments filed 10/19/05 have been fully considered but they are not persuasive. Applicant argues that the particular range of the refractive index renders the claim allowable. However, the examiner respectfully disagrees because applicant has not provided sufficient evidence of criticality of the range. From the specification, as originally filed, it is not clear if there is a clear nexus between only the refractive index and the ILD not requiring planarization. Regarding the attorney's argument that the range is critical, arguments of counsel cannot take the place of evidence, for example, in the form of declarations or affidavits, in the record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A. Booth whose telephone number is (571) 272-1668. The examiner can normally be reached on Monday-Thursday from 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lebentritt can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard A. Booth
Primary Examiner
Art Unit 2812

January 3, 2006